

REMARKS

Claims 1-25 are pending in the present application. In the Office Action, claims 1, 3-5, 9-12, 15, 17-18, 20-22, and 25 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Quigley, et al (U.S. Patent No. 6,650,624). Claims 2 and 16 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Quigley in view of Fleming, et al (U.S. Patent No. 6,212,360). Claims 6 and 19 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Quigley in view of Weidner, et al (U.S. Patent No. 5,987,572). Claims 7-8 and 23-24 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Quigley in view of Bestock (U.S. Patent No. 5,363,449). Claims 13-14 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Quigley in view of Albrecht, et al (U.S. Patent No. 6,510,521). The Examiner's rejections are respectfully traversed.

Independent claim 1 sets forth, among other things, a standard mode driver to extract encrypted data from a digital received signal and a privileged mode driver for decrypting encrypted data, which includes one or more control codes. The decrypted control codes are provided to a physical layer hardware unit, which uses the decrypted control codes to configure assigned transmission parameters of the physical layer hardware unit. Independent claim 15 sets forth, among other things, receiving encrypted data over a communications channel in a standard processing mode of a processing unit and transitioning the processing unit into a privileged processing mode. Claim 15 also sets forth decrypting encrypted data in a privileged processing mode, extracting control codes from the decrypted data in the privileged processing mode, and transmitting an upstream signal over a communications channel based on transmission assignments defined by the control codes.

Quigley describes a subscriber cable modem 12 that may receive data packets including encrypted data and control information. The data packets may be introduced to a downstream processor 342, which parses the data and the control information and provides the encrypted (parsed) data to a downstream decrypter 344. The decrypted data may then be provided to a first area in a static random access memory 314. See Quigley, col. 24, line 59 – col. 25, line 5. However, Quigley does not describe or suggest any particular modes of operation for the subscriber cable modem 12. In particular, Quigley fails to teach or suggest operating the subscriber cable modem 12 in a standard mode and a privileged mode. Thus, Quigley fails to teach or suggest a standard mode driver to extract encrypted data from a digital received signal and a privileged mode driver for decrypting encrypted data, which includes one or more control codes, as set forth in independent claim 1. Quigley also fails to teach or suggest receiving encrypted data over a communications channel in a standard processing mode of a processing unit and transitioning the processing unit into a privileged processing mode, as set forth in independent claim 15. Consequently, Quigley fails to teach or suggest decrypting encrypted data in a privileged processing mode or extracting control codes from the decrypted data in the privileged processing mode, as set forth in independent claim 15.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not anticipated by Quigley and request that the Examiner's rejections of claims 1, 3-5, 9-12, 15, 17-18, 20-22, and 25 under 35 U.S.C. 102(b) be withdrawn.

Moreover, it is respectfully submitted that the pending claims are not obvious in view of the prior art of record. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, the primary reference fails to

teach or suggest a standard mode driver to extract encrypted data from a digital received signal and a privileged mode driver for decrypting encrypted data, which includes one or more control codes, as set forth in independent claim 1. The primary reference also fails to teach or suggest receiving encrypted data over a communications channel in a standard processing mode of a processing unit and transitioning the processing unit into a privileged processing mode, as set forth in independent claim 15. Consequently, the primary reference fails to teach or suggest decrypting encrypted data in a privileged processing mode or extracting control codes from the decrypted data in the privileged processing mode, as set forth in independent claim 15.

The Examiner relies upon Weidner to teach passing pointers indicating locations of encrypted data in memory, Bestock to teach extracting user data from decrypted data, and Albrecht to teach a BIOS memory. However, none of the secondary references remedy the fundamental deficiencies of the primary reference. The prior art of record also fails to provide any suggestion or motivation to modify the prior art to arrive at Applicants' claimed invention. To the contrary, the primary reference teaches away from the present invention. In particular, Quigely teaches that the subscriber cable modem 12 extracts encrypted data and decrypts the data while in the same operating mode. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re Fine*, 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson*, 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over the prior art of record. Applicants respectfully request that the

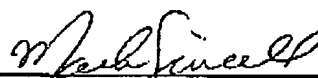
Examiner's rejections of claims 2, 6-8, 13-14, 16, 19, and 23-24 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date:

7/29/05



Mark W. Sincell, Ph.D.

Reg. No. 52,226

Williams Morgan & Amerson, P.C.

10333 Richmond Avenue, Suite 1100

Houston, TX 77042

(713) 934-7000

(713) 934-7011 (Fax)

AGENT FOR APPLICANTS